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April 16, 1993

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20036

RE: In the Matter of Amendment of Part 21 of the Commission's Rules for the Domestic
Public Fixed Radio Services
CC Docket No. 93-2

Dear Ms. Searcy:

Attached are the original and five copies of the Reply of Sprint Corporation in the
proceeding referenced above.

Sincerely,

Jay C. Keithley / MLM
Jay C. Keithley

Attachment

JCK/mlm

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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)
) CC Docket No. 93-2
 Amendment of Part 21 of the)
 Commission's Rules for the Domestic)
 Public Fixed Radio Services)

Reply of Sprint Corporation

Sprint Corporation (Sprint), on behalf of the United and Central Telephone companies¹ and Sprint Cellular Company (formerly Centel Cellular Company), hereby replies to comments submitted in response to the Commission's Notice of Proposed Rulemaking (Notice) released February 9, 1993, in the matter described above.

In the Notice, the Commission proposed to modify Part 21 of its Rules to allow carriers to begin construction of point-to-point microwave service (PPMS) facilities prior to grant of an authorization. Further, the Commission tentatively concluded that operation of facilities should not begin until the Commission serves public notice that it has granted an

1. Carolina Telephone & Telegraph Co., United Telephone - Southeast, Inc., United Telephone of the Carolinas, United Telephone Company of Southcentral Kansas, United Telephone Company of Eastern Kansas, United Telephone Company of Kansas, United Telephone Company of Minnesota, United Telephone Company of Missouri, United Telephone Company of Texas, Inc., United Telephone Company of the West, United Telephone Company of Florida, The United Telephone Company of Pennsylvania, United Telephone Company of New Jersey, Inc., United Telephone Company of the Northwest, United Telephone Company of Ohio, United Telephone Company of Indiana, Inc., Central Telephone Company - North Carolina Division, Central Telephone Company of Virginia, and Central Telephone Company of Texas.

application for new or modified PPMS facilities. The Commission also tentatively concluded that the allowed period for construction of new or modified facilities should be reduced from eighteen months to six months. Finally, the Commission proposed to revise, eliminate and consolidate several reporting requirements for all Part 21 applicants.

All the commenters joined Sprint in applauding the Commission's attempt to expedite the introduction of new and improved services through the proposals outlined above. However, a majority of commenters also joined Sprint in expressing concern that the Commission's proposals do not go far enough. Specifically, the majority of commenters urged the Commission to adopt procedures that will reduce the long delays Part 21 applicants now encounter before they can begin operating new or modified PPMS facilities. The majority of commenters also asserted that six months are not sufficient to construct new or modified facilities and recommended that the construction period be at least twelve months. The commenters' reactions to the Commission's proposed reporting requirement revisions were mixed. Sprint's replies to the specifics of the comments follow.

- I. **COMMISSION PROPOSAL:** PPMS applicants should be permitted to start construction of proposed facilities upon filing FCC Form 494 (Application for a New or Modified Microwave Radio Station License).

The commenters, including Sprint, expressed strong support for allowing a PPMS applicant to commence construction of both

new and modified PPMS facilities once the applicant has submitted a Form 494 in accordance with the Commission's Part 21 Rules. However, Sprint agrees with two exceptions noted by commenters to the Commission's other preconditions for commencing construction. The Notice stipulates that construction will not be allowed until the Commission has instructed an applicant as to tower lighting and marking requirements. As Southwestern Bell Corporation, McCaw Cellular Communications, Inc., and AT&T observe, these instructions are now a part of the Commission's final approval, and having to wait for the Commission's instructions will do nothing to speed the start of construction.² Southwestern Bell notes that the FAA's "no hazard" notification includes standards

pre-authorization construction.³ As most commenters agree, when applicants commence construction they assume the risk of having the Commission halt construction if any of the preconditions have not been met, including a Commission determination that a particular waiver request is not routine. Therefore, an applicant should not be precluded from commencing construction if only routine waivers are sought.

II. COMMISSION PROPOSAL: Operation of an applicant's new or modified facilities should not begin until the Commission serves public notice that the application has been approved.

Sprint has been joined by a majority of the commenters in opposing the Commission's tentative conclusion that operation of a new or modified facility should not begin until (1) the Commission places an application on public notice as having been accepted for filing, (2) the thirty-day comment period has lapsed, and (3) the Commission has issued a second public notice indicating that the application has been granted. The record indicates that this process often produces delays of six months or longer between the time an application is filed and is granted. As other commenters also emphasized, allowing pre-authorization construction does nothing to remedy this

3. Comments of Bell Atlantic Personal Communications, Inc., p. 2.

situation.⁴ The Commission must allow applicants to begin operation of their new facilities in a more timely manner if the Commission's goal in this proceeding is to be realized.

Other commenters would delay operation until after the full public notice cycle, fearing that the frequency coordination process will be compromised and interference could result if pre-authorization operation is permitted. Specifically, these commenters assert that they will not have an opportunity to compare frequencies provided to them in the pre-application frequency coordination process with the frequencies contained on an applicant's Form 494 and noted in the initial public notice.⁵

All commenters agree that protecting the frequency coordination process and preventing frequency interference are of the utmost importance. However, the frequency coordination process, including the opportunity to compare pre-application frequency coordination information with the Form 494 frequencies, does not have to result in several months delay before new facilities can be put into service. Sprint's comments included

4. See for example, Comments of McCaw Cellular, p. 2; GTE Comments, p. 1; Comments of Southwestern Bell, pp. 2 and 3; US

a recommendation in this regard that will satisfy the concerns of the Commission and the commenters that the integrity of the frequency coordination process not be violated.

Sprint again recommends that the Commission commit to placing applications on public notice within a week after their receipt by the Commission and allowing the applicant to commence operation thirty days after such public notice if no objections to the application are filed. In this way, interested parties will have ample opportunity to verify that pre-application frequency information is the same as that which appears on the applicant's Form 494.

The recommendations of Sprint, GTE and Pacific would accomplish the Commission's objectives of speeding the delivery of PPMS services and protecting the integrity of the frequency coordination process by allowing verification of pre-application frequency coordination information with the frequency information actually filed on Form 494. While Sprint's recommendation would result in the least delay in beginning operation of a PPMS facility, Sprint would not object to the adoption of either the GTE or Pacific proposal.

III. COMMISSION PROPOSAL: FCC Form 494A (Certification of Completion of Construction) should be eliminated for PPMS applicants.

Sprint's comments supported the Commission's proposal to eliminate FCC Form 494A. Sprint agrees with the Commission that existing Rules provide sufficient enforcement mechanisms against applicants who do not construct or operate their facilities consistent with their authorizations.⁸ However, Sprint is sensitive to the concerns of commenters like GTE who suggest that PPMS construction abandonment, without some form of notification, could result in frequency assignments going unused.⁹ The National Spectrum Managers Association also asserts that the notice of construction completion ensures that data bases of frequency use are kept up to date.¹⁰ To satisfy these concerns,

8. Notice at para. 16.

9. GTE Comments, p. 8.

10. Comments of National Spectrum Managers Association, p. 3.

Sprint would not object to GTE's suggestion requiring that abandonment of a PPMS project be reported to the Commission on an exception basis.¹¹ This could easily be accomplished by a letter from the applicant that it does not intend to complete the facility for which authorization has been granted. At the same time, exception reporting would relieve the administrative burden of completing and filing Form 494A for the great majority of construction projects that are completed.

IV. COMMISSION PROPOSAL: The construction period for PPMS conditional licenses should be reduced from eighteen months to six months.

In its comments, Sprint said it would not object to the construction period for PPMS facilities being reduced from eighteen months to six months. However, most commenters asserted that six months may be too short a time to complete construction projects because of circumstances beyond their control.¹² GTE, among others, predicted that a six month construction period will produce an increase in applications for extensions of time to complete construction.¹³ Many commenters

11. GTE Comments, p. 8.

12. US West Comments, p. 11; Comments of Telecom Services Group, p. 8; Comments of Southwestern Bell, p. 13; Comments of Pacific Telesis, p.7; AT&T Comments, p. 3; Comments of the United States Telephone Association, p. 5; Comments of EMI Communications, p. 2; Comments of Bell Atlantic Personal Communications, p. 3.

13. GTE Comments, p. 6.

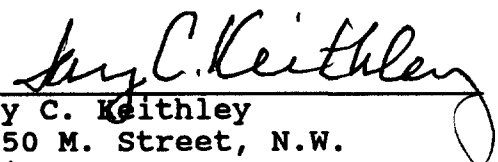
recommended twelve months as a reasonable construction period.¹⁴
Sprint does not oppose reduction of the current construction period to one year.

- V. **COMMISSION PROPOSAL:** The PPMS application process can be further streamlined by eliminating FCC Form 430, modifying FCC Form 494, and consolidating FCC Forms 702 and 704 into a new Form 705.

Sprint's comments supported streamlining the application process as much as reasonably possible. The commenters made many good and varied recommendations as to how the Commission's PPMS forms can be modified to maximize their benefit and minimize the time and effort required to populate and file them. Because of the number of detailed suggestions, Sprint agrees with AT&T's suggestion that the Commission direct the staff to work with the industry to redesign the forms.¹⁵

Respectfully submitted,

SPRINT CORPORATION

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April 16, 1993

14. AT&T Comments, pp. 3 and 4; Southwestern Bell, p. 13; Comments of McCaw Cellular, p. 3; Comments of Western Tele-Communications, p. 6.

15. AT&T Comments, p. 5.

CERTIFICATE OF SERVICE

I, Melinda L. Mills, hereby certify that I have on this 16th day of April, 1993, sent via hand delivery or U.S. First Class Mail, postage prepaid, a copy of the foregoing "Reply of Sprint Corporation" In the Matter of Amendment of Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Services, CC Docket No. 93-2, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.


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